

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

CORRECTIONAL OFFICERS ASSOCIATION OF DELAWARE,	:	
	:	<b>Unfair Labor Practice</b>
Charging Party,	:	
v.	:	<b>Charge &amp; Counter-Charge</b>
	:	
STATE OF DELAWARE, DEPARTMENT OF CORRECTION,	:	<b><u>09-07-688</u></b>
	:	
Respondent.	:	

**ORDER OF DISMISSAL**

1. The State of Delaware (“State”) is a public employer within the meaning of §1302(p) of the Public Employment Relations Act (“Act”), 19 Del.C. Chapter 13 (1994). The Delaware Department of Correction (“DOC”) is an agency of the State.

2. The Correctional Officers Association of Delaware (“COAD”) is an employee organization within the meaning of §1302(i) of the Act and is the exclusive bargaining representative of a bargaining unit of DOC uniformed employees (as defined in DOL Case 1) within the meaning of §1302(j) of the Act.

3. On or about July 9, 2009, COAD filed an unfair labor practice charge alleging that DOC violated 19 Del.C. §1307(a)(5) and/or (6),<sup>1</sup> by “failing, refusing, and delaying in negotiating over compensation terms and conditions of employment, and by unilaterally implementing a 2.5% decrease in pay, unilaterally changing the method of calculating overtime payments, and unilaterally converting Presidents’ Day and Columbus Day holidays to floating

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<sup>1</sup> 19 Del.C. §1307(a): It is an unfair labor practice for a public employer or its designated representative to do any of the following:

- (5) Refuse to bargain collective in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit.
- (6) Refuse or fail to comply with any provision of this chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining under this Chapter.

holidays.”

4. On or about July 27, 2009, the State filed its Answer denying all material allegations of the Charge. The State also filed a Countercharge against COAD alleging it had failed or refused to bargain in good faith in violation of 19 Del.C. §1311A(a)(1); §1307(b)(2); and §1307 (b)(3). The State further asserted under New Matter that 1) PERB does not have jurisdiction over the Charge; 2) the Charge fails to state a claim for which relief can be granted; 3) the Charge fails to state a claim for which relief can be granted under 19 Del.C. §1307(a)(5); and 4) the Charge fails to state a claim for which relief can be granted under 19 Del.C. §1307(a)(6).

5. On or about August 10, 2009, COAD filed its Response to New Matter, denying the State’s Countercharge and its asserted defenses to the Charge.

6. Thereafter, the Charge was held in abeyance while the parties were engaged in negotiations for a collective bargaining agreement.

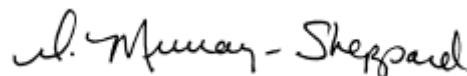
5. By letter dated May 26, 2010, COAD advised PERB “the parties have reached a tentative agreement and, pursuant to an agreement by the parties, the Union requests this matter be withdrawn.”

6. By e-mail dated June 8, 2010, the State advised PERB, “It is the State’s intent to withdraw the Counter-Charge contemporaneous with COAD’s withdrawal of its Charge in this case.”

**WHEREFORE**, the Charge and Counter-Charge are hereby dismissed.

**IT IS SO ORDERED.**

DATE: June 9, 2010



DEBORAH L. MURRAY-SHEPPARD  
Executive Director  
Del. Public Employment Relations Bd.